



**Author Name:** Aarthi Belani

**University:** New York University

**Program of Study:** J.D.

**Abstract Title:** The South African Constitutional Court's Decision in TAC: A "Reasonable" Choice?

**Abstract:** The South African Constitutional Court in *Minister of Health versus Treatment Action Campaign (TAC)* ordered the government to nationalize a prevention of mother-to-child transmission of HIV (PMTCT) program in the public health sector, finding that its failure to do so violated the right to health. The Court in TAC followed the line of reasoning in *South Africa v. Grootboom*, formally rejecting "minimum core obligation" analysis developed in international law, and instead applying a test of "reasonableness" — well entrenched in Anglo jurisprudence — to evaluate government action or lack thereof. This piece argues that the Court formally passes up the "minimum core" approach one, to earn domestic legitimacy and two, to reserve discretion to decide future economic rights cases under the very fact-dependent "reasonableness" rubric. But its pragmatic approach confines the transformative effect of the decision in TAC and does not give due weight to the provisions in the South African Constitution that elevate international law, foremost as an interpretive tool.